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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,985	01/29/2004	Daniel Perreault	S63.2-11023-US01	5338

490 7590 12/19/2006  
VIDAS, ARRETT & STEINKRAUS, P.A.  
6109 BLUE CIRCLE DRIVE  
SUITE 2000  
MINNETONKA, MN 55343-9185

EXAMINER
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COZART, JERMIE E

ART UNIT	PAPER NUMBER
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3726

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/19/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/767,985

Applicant(s)

PERREAULT ET AL.

Examiner

Jermie Cozart

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-14,16 and 18-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-14 and 25-43 is/are allowed.
- 6) ☒ Claim(s) 1, 4,16, and 18 is/are rejected.
- 7) ☒ Claim(s) 3,6-11 and 19-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. The indicated allowability of the subjected matter of the canceled claims which has been incorporated into claims 1, 4, 16, and 18 is withdrawn in view of the reference(s) to White (6,171,234), Kliefoth (1,968,456), and Penner (5,725,519).

Rejections based on the newly cited reference(s) follow.

2. Claims 3, 6-11, and 19-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. Claims 12-14 and 25-43 are allowed.

### ***Claim Objections***

4. Claims 22 and 23 are objected to because of the following informalities: In claims 22 and 23, line 1 of each claim, "introducer plug" is objected to because it consistent with the scope of the respective claim and their respective independent claims.

Therefore it is suggested to change "introducer plug" to - -combination- -. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by White et al. (US 6,171,234 B1).

White discloses an apparatus (80) for loading a flexible member into the lumen of a catheter delivery system, the apparatus (80) having an alignment plug (not labeled, Fig. 8) with an external taper. See column 5, lines 36-55 and figure 8 for further clarification.

Note that the limitation "for loading a self-expanding stent into a catheter," "constructed and arranged to matingly engage a crimping apparatus for reducing the diameter of the self-expanding stent from a first diameter to a second diameter prior to loading the self-expanding stem into the catheter delivery system," "for matingly engaging the crimping apparatus" are recitations of the intended use, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

7. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Kliefoth (1,968,456).

Kliefoth discloses an apparatus (3) an introducer shaft having an internal lumen and an outer triangular configuration (Fig. 2).

Note that the limitations "for loading a medical device into a catheter delivery system," "constructed and arranged to matingly engage a crimping apparatus for reducing the diameter of said medical device from a first diameter to a second diameter prior to loading said medical device into said catheter delivery system," and "for

receiving a catheter delivery system" are recitations of the intended use, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

8. Claims 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Penner et al. (5,725,519).

Penner discloses in combination, a crimping apparatus (14) for reducing the diameter of a medical device from a first diameter to a second diameter and a loading apparatus (16, 64), the crimping apparatus comprising an actuation hub (14) having an internal taper (FIG. 3) constructed and arranged to matingly engage the loading apparatus (16, 64) and the loading apparatus (16, 64) comprising an alignment plug (16) having an external taper (FIG. 3) constructed and arranged to matingly engage the crimping apparatus (14). The loading apparatus of Penner further comprises an introducer shaft (64).

Note that the limitation "for introducing said medical device into a catheter delivery system" is a recitation of the intended use, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JERMIE E. COZART  
PRIMARY EXAMINER

December 8, 2006